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ENGROSSED SENATE BILL 5058

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State of Washington

57th Legislature

2001 Regular Session

By Senators Gardner, Hale, Haugen, Horn, Costa, Patterson, Kline and McCaslin

Read first time 01/10/2001. Referred to Committee on State & Local Government.

1 AN ACT Relating to public record protection; and reenacting and  
2 amending RCW 42.17.310.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 42.17.310 and 2000 c 134 s 3, 2000 c 56 s 1, and 2000  
5 c 6 s 5 are each reenacted and amended to read as follows:

6 (1) The following are exempt from public inspection and copying:

7 (a) Personal information in any files maintained for students in  
8 public schools, patients or clients of public institutions or public  
9 health agencies, or welfare recipients.

10 (b) Personal information in files maintained for employees,  
11 appointees, or elected officials of any public agency to the extent  
12 that disclosure would violate their right to privacy.

13 (c) Information required of any taxpayer in connection with the  
14 assessment or collection of any tax if the disclosure of the  
15 information to other persons would (i) be prohibited to such persons by  
16 RCW 84.08.210, 82.32.330, 84.40.020, or 84.40.340 or (ii) violate the  
17 taxpayer's right to privacy or result in unfair competitive  
18 disadvantage to the taxpayer.

1 (d) Specific intelligence information and specific investigative  
2 records compiled by investigative, law enforcement, and penology  
3 agencies, and state agencies vested with the responsibility to  
4 discipline members of any profession, the nondisclosure of which is  
5 essential to effective law enforcement or for the protection of any  
6 person's right to privacy. After the arrest of a suspect and referral  
7 of the case to the prosecuting authority, basic arrest information  
8 contained within the police incident report is no longer exempt, unless  
9 the agency promptly requests an examination of the record in camera and  
10 obtains an injunction against such release pursuant to RCW 42.17.330.  
11 After conviction, acquittal, dismissal of charges, or declination to  
12 file, the remainder of the investigative file in that particular case  
13 is no longer exempt, unless the agency promptly requests an examination  
14 of the record in camera and obtains an injunction against such release  
15 pursuant to RCW 42.17.330.

16 (e) Information revealing the identity of persons who are witnesses  
17 to or victims of crime or who file complaints with investigative, law  
18 enforcement, or penology agencies, other than the public disclosure  
19 commission, if disclosure would endanger any person's life, physical  
20 safety, or property. If at the time a complaint is filed the  
21 complainant, victim or witness indicates a desire for disclosure or  
22 nondisclosure, such desire shall govern. However, all complaints filed  
23 with the public disclosure commission about any elected official or  
24 candidate for public office must be made in writing and signed by the  
25 complainant under oath.

26 (f) Test questions, scoring keys, and other examination data used  
27 to administer a license, employment, or academic examination.

28 (g) Except as provided by chapter 8.26 RCW, the contents of real  
29 estate appraisals, made for or by any agency relative to the  
30 acquisition or sale of property, until the project or prospective sale  
31 is abandoned or until such time as all of the property has been  
32 acquired or the property to which the sale appraisal relates is sold,  
33 but in no event shall disclosure be denied for more than three years  
34 after the appraisal.

35 (h) Valuable formulae, designs, drawings, computer source code or  
36 object code, and research data obtained by any agency within five years  
37 of the request for disclosure when disclosure would produce private  
38 gain and public loss.

1 (i) Preliminary drafts, notes, recommendations, and intra-agency  
2 memorandums in which opinions are expressed or policies formulated or  
3 recommended except that a specific record shall not be exempt when  
4 publicly cited by an agency in connection with any agency action.

5 (j) Records which are relevant to a controversy to which an agency  
6 is a party but which records would not be available to another party  
7 under the rules of pretrial discovery for causes pending in the  
8 superior courts.

9 (k) Records, maps, or other information identifying the location of  
10 archaeological sites in order to avoid the looting or depredation of  
11 such sites.

12 (l) Any library record, the primary purpose of which is to maintain  
13 control of library materials, or to gain access to information, which  
14 discloses or could be used to disclose the identity of a library user.

15 (m) Financial information supplied by or on behalf of a person,  
16 firm, or corporation for the purpose of qualifying to submit a bid or  
17 proposal for (i) a ferry system construction or repair contract as  
18 required by RCW 47.60.680 through 47.60.750 or (ii) highway  
19 construction or improvement as required by RCW 47.28.070.

20 (n) Railroad company contracts filed prior to July 28, 1991, with  
21 the utilities and transportation commission under RCW 81.34.070, except  
22 that the summaries of the contracts are open to public inspection and  
23 copying as otherwise provided by this chapter.

24 (o) Financial and commercial information and records supplied by  
25 private persons pertaining to export services provided pursuant to  
26 chapter 43.163 RCW and chapter 53.31 RCW, and by persons pertaining to  
27 export projects pursuant to RCW 43.23.035.

28 (p) Financial disclosures filed by private vocational schools under  
29 chapters 28B.85 and 28C.10 RCW.

30 (q) Records filed with the utilities and transportation commission  
31 or attorney general under RCW 80.04.095 that a court has determined are  
32 confidential under RCW 80.04.095.

33 (r) Financial and commercial information and records supplied by  
34 businesses or individuals during application for loans or program  
35 services provided by chapters 43.163, 43.160, 43.330, and 43.168 RCW,  
36 or during application for economic development loans or program  
37 services provided by any local agency.

38 (s) Membership lists or lists of members or owners of interests of  
39 units in timeshare projects, subdivisions, camping resorts,

1 condominiums, land developments, or common-interest communities  
2 affiliated with such projects, regulated by the department of  
3 licensing, in the files or possession of the department.

4 (t) All applications for public employment, including the names of  
5 applicants, resumes, and other related materials submitted with respect  
6 to an applicant.

7 (u) The residential addresses and residential telephone numbers of  
8 employees or volunteers of a public agency which are held by the agency  
9 in personnel records, employment or volunteer rosters, or mailing lists  
10 of employees or volunteers.

11 (v) The residential addresses and residential telephone numbers of  
12 the customers of a public utility contained in the records or lists  
13 held by the public utility of which they are customers, except that  
14 this information may be released to the division of child support or  
15 the agency or firm providing child support enforcement for another  
16 state under Title IV-D of the federal social security act, for the  
17 establishment, enforcement, or modification of a support order.

18 (w)(i) The federal social security number of individuals governed  
19 under chapter 18.130 RCW maintained in the files of the department of  
20 health, except this exemption does not apply to requests made directly  
21 to the department from federal, state, and local agencies of  
22 government, and national and state licensing, credentialing,  
23 investigatory, disciplinary, and examination organizations; (ii) the  
24 current residential address and current residential telephone number of  
25 a health care provider governed under chapter 18.130 RCW maintained in  
26 the files of the department, if the provider requests that this  
27 information be withheld from public inspection and copying, and  
28 provides to the department an accurate alternate or business address  
29 and business telephone number. On or after January 1, 1995, the  
30 current residential address and residential telephone number of a  
31 health care provider governed under RCW 18.130.040 maintained in the  
32 files of the department shall automatically be withheld from public  
33 inspection and copying unless the provider specifically requests the  
34 information be released, and except as provided for under RCW  
35 42.17.260(9).

36 (x) Information obtained by the board of pharmacy as provided in  
37 RCW 69.45.090.

1 (y) Information obtained by the board of pharmacy or the department  
2 of health and its representatives as provided in RCW 69.41.044,  
3 69.41.280, and 18.64.420.

4 (z) Financial information, business plans, examination reports, and  
5 any information produced or obtained in evaluating or examining a  
6 business and industrial development corporation organized or seeking  
7 certification under chapter 31.24 RCW.

8 (aa) Financial and commercial information supplied to the state  
9 investment board by any person when the information relates to the  
10 investment of public trust or retirement funds and when disclosure  
11 would result in loss to such funds or in private loss to the providers  
12 of this information.

13 (bb) Financial and valuable trade information under RCW 51.36.120.

14 (cc) Client records maintained by an agency that is a domestic  
15 violence program as defined in RCW 70.123.020 or 70.123.075 or a rape  
16 crisis center as defined in RCW 70.125.030.

17 (dd) Information that identifies a person who, while an agency  
18 employee: (i) Seeks advice, under an informal process established by  
19 the employing agency, in order to ascertain his or her rights in  
20 connection with a possible unfair practice under chapter 49.60 RCW  
21 against the person; and (ii) requests his or her identity or any  
22 identifying information not be disclosed.

23 (ee) Investigative records compiled by an employing agency  
24 conducting a current investigation of a possible unfair practice under  
25 chapter 49.60 RCW or of a possible violation of other federal, state,  
26 or local laws prohibiting discrimination in employment.

27 (ff) Business related information protected from public inspection  
28 and copying under RCW 15.86.110.

29 (gg) Financial, commercial, operations, and technical and research  
30 information and data submitted to or obtained by the clean Washington  
31 center in applications for, or delivery of, program services under  
32 chapter 70.95H RCW.

33 (hh) Information and documents created specifically for, and  
34 collected and maintained by a quality improvement committee pursuant to  
35 RCW 43.70.510 or 70.41.200, or by a peer review committee under RCW  
36 4.24.250, regardless of which agency is in possession of the  
37 information and documents.

38 (ii) Personal information in files maintained in a data base  
39 created under RCW 43.07.360.

1 (jj) Financial and commercial information requested by the public  
2 stadium authority from any person or organization that leases or uses  
3 the stadium and exhibition center as defined in RCW 36.102.010.

4 (kk) Names of individuals residing in emergency or transitional  
5 housing that are furnished to the department of revenue or a county  
6 assessor in order to substantiate a claim for property tax exemption  
7 under RCW 84.36.043.

8 (ll) The names, residential addresses, residential telephone  
9 numbers, and other individually identifiable records held by an agency  
10 in relation to a vanpool, carpool, or other ride-sharing program or  
11 service. However, these records may be disclosed to other persons who  
12 apply for ride-matching services and who need that information in order  
13 to identify potential riders or drivers with whom to share rides.

14 (mm) The personally identifying information of current or former  
15 participants or applicants in a paratransit or other transit service  
16 operated for the benefit of persons with disabilities or elderly  
17 persons.

18 (nn) The personally identifying information of persons who acquire  
19 and use transit passes and other fare payment media including, but not  
20 limited to, stored value smart cards and magnetic strip cards, except  
21 that an agency may disclose this information to a person, employer,  
22 educational institution, or other entity that is responsible, in whole  
23 or in part, for payment of the cost of acquiring or using a transit  
24 pass or other fare payment media, or to the news media when reporting  
25 on public transportation or public safety. This information may also  
26 be disclosed at the agency's discretion to governmental agencies or  
27 groups concerned with public transportation or public safety.

28 (oo) Proprietary financial and commercial information that the  
29 submitting entity, with review by the department of health,  
30 specifically identifies at the time it is submitted and that is  
31 provided to or obtained by the department of health in connection with  
32 an application for, or the supervision of, an antitrust exemption  
33 sought by the submitting entity under RCW 43.72.310. If a request for  
34 such information is received, the submitting entity must be notified of  
35 the request. Within ten business days of receipt of the notice, the  
36 submitting entity shall provide a written statement of the continuing  
37 need for confidentiality, which shall be provided to the requester.  
38 Upon receipt of such notice, the department of health shall continue to  
39 treat information designated under this section as exempt from

1 disclosure. If the requester initiates an action to compel disclosure  
2 under this chapter, the submitting entity must be joined as a party to  
3 demonstrate the continuing need for confidentiality.

4 (pp) Records maintained by the board of industrial insurance  
5 appeals that are related to appeals of crime victims' compensation  
6 claims filed with the board under RCW 7.68.110.

7 (qq) Financial and commercial information supplied by or on behalf  
8 of a person, firm, corporation, or entity under chapter 28B.95 RCW  
9 relating to the purchase or sale of tuition units and contracts for the  
10 purchase of multiple tuition units.

11 (rr) Any records of investigative reports prepared by any state,  
12 county, municipal, or other law enforcement agency pertaining to sex  
13 offenses contained in chapter 9A.44 RCW or sexually violent offenses as  
14 defined in RCW 71.09.020, which have been transferred to the Washington  
15 association of sheriffs and police chiefs for permanent electronic  
16 retention and retrieval pursuant to RCW 40.14.070(2)(b).

17 (ss) Credit card numbers, debit card numbers, electronic check  
18 numbers, card expiration dates, or bank or other financial account  
19 numbers supplied to an agency for the purpose of electronic transfer of  
20 funds, except when disclosure is expressly required by law.

21 (tt) Financial information, including but not limited to account  
22 numbers and values, and other identification numbers supplied by or on  
23 behalf of a person, firm, corporation, limited liability company,  
24 partnership, or other entity related to an application for a liquor  
25 license, gambling license, or lottery retail license.

26 (uu) Records maintained by the employment security department and  
27 subject to chapter 50.13 RCW if provided to another individual or  
28 organization for operational, research, or evaluation purposes.

29 (vv) Individually identifiable information received by the work  
30 force training and education coordinating board for research or  
31 evaluation purposes.

32 (ww) Records the disclosure of which would reveal, directly or  
33 indirectly, the strategy or position to be taken by an agency during  
34 the course of any collective bargaining, professional negotiations, or  
35 grievance or mediation proceedings.

36 (2) Except for information described in subsection (1)(c)(i) of  
37 this section and confidential income data exempted from public  
38 inspection pursuant to RCW 84.40.020, the exemptions of this section  
39 are inapplicable to the extent that information, the disclosure of

1 which would violate personal privacy or vital governmental interests,  
2 can be deleted from the specific records sought. No exemption may be  
3 construed to permit the nondisclosure of statistical information not  
4 descriptive of any readily identifiable person or persons.

5 (3) Inspection or copying of any specific records exempt under the  
6 provisions of this section may be permitted if the superior court in  
7 the county in which the record is maintained finds, after a hearing  
8 with notice thereof to every person in interest and the agency, that  
9 the exemption of such records is clearly unnecessary to protect any  
10 individual's right of privacy or any vital governmental function.

11 (4) Agency responses refusing, in whole or in part, inspection of  
12 any public record shall include a statement of the specific exemption  
13 authorizing the withholding of the record (or part) and a brief  
14 explanation of how the exemption applies to the record withheld.

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